

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

U.S. Filter Recovery Services (California), Inc.
5375 S. Boyle Avenue
Vernon, CA 90058

EPA ID# CAD097030993

Respondent.

Docket HWCA 20040566

CONSENT ORDER

Health and Safety Code
Section 25187

INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and U.S. Filter Recovery Services (California), Inc. (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles, treats, stores, and/or disposes of hazardous waste at the following site: 5375 S. Boyle Avenue, Vernon, CA 90058 (Site).

1.3. Inspection. The Department inspected the Site on October 22 - 24, 27, 2003, November 18, 2003, and May 24, 2004.

1.4. Authorization Status. The Department authorized Respondent to manage hazardous waste by Hazardous Waste Facility Permit No. 96-SC-TS-06 (the "Permit") issued on August 30, 1996, and subsequent approved modifications.

1.5. Jurisdiction. Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Full Settlement. By their respective signatures below, the Parties, and each of them, agree that this Order, and all of the terms contained herein, are fair, reasonable, and in the public interest. This Order shall constitute full settlement of the violations alleged below and of any violations alleged in the reports of the inspections set forth at paragraph 1.3 above. By agreeing to this Order, the Department does not waive any right to take further enforcement actions within its jurisdiction and involving either the Respondent or the Site, except to the extent provided in this Order. By agreeing to this Order, Respondent does not admit to any of the allegations of the Department.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

VIOLATIONS ALLEGED

2. The Department alleges the following violations:

2.1.1. (2003-2) Respondent violated California Code of Regulations, title 22, sections 66264.31 and 66270.30, and Permit Special Condition N.3(a), in that, on or about October 22, 2003, Respondent failed to maintain and operate the facility in such a manner as to minimize the possibility of an unplanned release of hazardous waste to the air, soil or water which could threaten human health or the environment. To wit, Respondent mixed incompatible hazardous wastes in Tank 21 causing a release of hazardous waste to the air.

2.1.2. (2003-3) Respondent violated California Code of Regulations, title 22, sections 66264.31 and 66270.30, and Permit Special Condition N.3(b), in that, on or about October 22, 2003, Respondent failed to maintain and operate the facility in such a manner as to minimize the possibility of an unplanned release of hazardous waste to

the air, soil or water which could threaten human health or the environment. To wit, Respondent failed to maintain equipment in the off-loading area of the facility from leaking hazardous waste.

2.1.3. (2003-4) Respondent violated California Code of Regulations, title 22, sections 66264.31 and 66270.30, and Permit Special Condition N.3(b), in that, on or about, October 22, 2003, Respondent failed to maintain and operate the facility in such a manner as to minimize the possibility of an unplanned release of hazardous waste to the air, soil or water which could threaten human health or the environment. To wit, Respondent allowed equipment at or about Tank 5 to leak hazardous waste.

2.1.4. (2004-1) Respondent violated California Code of Regulations, title 22, sections 66264.17, subsection (a), and 66270.30, and Permit section III.D.4.7, in that, on or about May 24, 2004, Respondent failed to exclude waste from the Primary Off-Loading Area that was not compatible with the wastes stored at the same time.

SCHEDULE FOR COMPLIANCE

3. Respondent shall comply with the following:

3.1. Beginning on the first calendar day of the first calendar month following the effective date of this Order and continuing thereafter for a total of six consecutive calendar months, Respondent shall submit to the Department monthly reports of activations of the Emission Scrubber System (System). Such activations shall include any and all instances of unplanned operation of the System. The report shall include at a minimum: date and time of activation; duration of activation; materials involved; cause of activation; subsequent remedial measures, if any; all photographs taken relating to the activation, if any; and reports of complaints received, if any. The report shall be

submitted to the Department no later than ten business days following the close of each month for which reporting is required under this paragraph and shall be certified by the Director of Environmental Health & Safety for the facility. The Department shall not take any enforcement action against Respondent with regard to any report submitted by Respondent pursuant to this paragraph, without first giving Respondent the opportunity to meet with Department staff to discuss and resolve any issues or concerns that the Department may have concerning such report. In the event that an activation of the System, as reported by Respondent, violates applicable laws or permit requirements, the report of such activation shall be considered an environmental audit voluntarily self-disclosed by Respondent in accordance with Cal/EPA's Recommended Guidance On Incentives For Voluntary Disclosure, dated October 2003, and as may be amended thereafter.

3.2. Submittals. All submittals from Respondent pursuant to this Consent Order shall be sent to:

Roberto Kou, Unit Chief
Statewide Compliance Division
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

3.3. Communications. All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent

shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with this Order or fails to protect public health or safety or the environment, the Department may:

- a. Modify the document as deemed necessary and approve the document as modified, or
- b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws. Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.6. Endangerment during Implementation. In the event that the Department determines that any circumstance or activity (whether or not pursued in compliance with this Order) is creating an imminent or substantial endangerment to the health or welfare of people on the Site, in the surrounding area, or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as is needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended by the term of such Stop Work Order.

3.7. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare, or the environment.

3.8. Site Access. Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any other agency having jurisdiction. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law.

3.9. Sampling, Data, and Document Availability.

3.9.1. Respondent shall permit the Department and/or its authorized representatives to inspect and copy all sampling, testing, monitoring, and/or other data (including, without limitation, the results of any such sampling, testing and monitoring) generated by Respondent, or on Respondent's behalf, in any way pertaining to work undertaken pursuant to this Order.

3.9.2. Respondent shall allow the Department and/or its authorized representatives to take duplicates of any samples collected by Respondent pursuant to

this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order.

3.9.3. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either:

- (a) comply with that request,
- (b) deliver the documents to the Department, or
- (c) notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order and permit the Department to copy the documents prior to destruction.

3.10. Government Liabilities. Neither the State of California nor the Department shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent, or related parties specified in paragraph 4.2, in carrying out activities pursuant to this Order. Neither the State of California nor the Department shall be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

3.11. Incorporation of Plans and Reports. All plans, schedules, and reports that were submitted by Respondent pursuant to the violations set forth above, and/or this schedule for compliance, and were approved by the Department are hereby incorporated into this Order.

3.12. Extension Requests. If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may,

prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.13. Extension Approvals. If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

OTHER PROVISIONS

4.1. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.2. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.3. Privileges. Nothing in this Agreement shall be construed to require any party to waive any privilege, including without limitation, attorney-client and attorney work-product. However, the assertion of any privilege shall not relieve any party of its obligations under this Order.

4.4. Time Periods. "Days" for the purpose of this Order means calendar days.

4.5. Integration. This Order constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except by a writing duly

executed by the Department and specifically referencing this document by title and docket number, or as otherwise provided in this Consent Agreement.

PENALTY

5.1. Respondent shall pay the Department the total sum of \$21,000, which includes \$5,000 as reimbursement of the Department's costs incurred in connection with this matter.

5.2. Payment in the amount of \$10,500 is due within 30 days from the effective date of this Order.

a. In the event that Respondent fully complies with paragraph 3.1, above, within the time prescribed by paragraph 3.1, the balance of \$10,500 is forgiven.

b. In the event that Respondent fails to fully comply with paragraph 3.1, above, within the time prescribed by paragraph 3.1, the balance of \$10,500 is due and payable seven months from the effective date of this Order.

5.3. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Roberto Kou, Unit Chief
Statewide Compliance Division
Department of Toxic Substances Control
1011 North Grandview Avenue
Glendale, California 91201

And

James J. Grace
Staff Counsel
Office of Legal Counsel and Investigations
Department of Toxic Substances Control
1001 I Street, 23rd floor
P. O. Box 806
Sacramento, California 95812-0806

5.4. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

EFFECTIVE DATE

6. The effective date of this Order is the date it is signed by the Department.

Dated: June 28, 2005

U.S. Filter Recovery Services (California), Inc.

Original signed by Kenneth M. Oldmixon
Kenneth M. Oldmixon
General Manager

Dated: July 12, 2005

Department of Toxic Substances Control

Original signed by Robert Kou
Roberto Kou, Unit Chief
Statewide Compliance Division